

REMARKS

Claims 1, 5 and 6 currently are pending. None of the claims currently have been amended.

Claims 1, 5-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 5, 9, 12, 19 and 20 of copending application 10/260,654, in view of Nicholas et al. (US 3,668,034).

To overcome this rejection applicants herein file a terminal disclaimer.

Claims 1 and 5-6 are rejected under 35 USC § 103(a) as being unpatentable over Nicholas et al. (US 3,668,034) in view of Vinod (US 5,965,232). The examiner disagreed with our last response because Vinod teaches a layered composite material comprising a decorative layer, intermediate layer and lower layer coated with a protective coating where the intermediate layer is made of non-woven thermoplastic material.

Applicants believe Nicholas et al. proposes to employ any thermoplastic material as intermediate bonding layer, whereas the instant invention is directed to polypropylene. Also, the actual intermediate layer employed by the present invention is not just defined by its chemical composition, i.e., polypropylene prepared in the presence of metallocene catalysts, but rather also by its physical structure (non-woven or fleece). Simply mentioning every possible thermoplastic material in a first prior art reference and the mention of polypropylene in another prior art reference cannot obviate such a special intermediate layer as employed by the instant invention in connection with all other features. Accordingly, the examiner has not established a

prima facie case of obviousness because all claim limitations are not taught or suggested by the cited references. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Also, applicants believe the Nicholas et al. and Vinod et al. are non-analogous art. In order to rely on a reference as a basis for rejection of an applicants' invention, the references must either be in the field of applicants' endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). In the present case, the teaching of the second reference is about a carpet and thus describes a completely different structure. The present invention is relevant to a decorative part for household devices.

For the reasons expressed above, it is urged that the prior art references cited by the examiner either singly or in combination fail to anticipate or suggest the present invention as defined by the amended claims. Accordingly, a *prima facie* case of obviousness has not been established by the examiner, and the rejection under 35 USC § 103 should be withdrawn.

A check in the amount of \$110.00 to cover the Terminal Disclaimer is attached.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such account.

MUELLER et al., Serial No. 09/811,432

Respectfully submitted,
KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read "Daniel Kim". The signature is fluid and cursive, with the first name "Daniel" and last name "Kim" clearly distinguishable.

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